

**Notice of Allowability**

Application No.

09/918,075

Examiner

Mark Fadok

Applicant(s)

EDMARK, TOMIMA L.

Art Unit

3625

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/6/2006.
2. ☒ The allowed claim(s) is/are 1-32 and 34.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

The examiner is in receipt of applicant's response to office action mailed 10/4/2005, which was received 3/6/2006. The examiner has carefully considered the amendments and arguments provided by the applicant, and have found them to be persuasive, therefore the following reasons for allowance are provided:

### **Rejoinder of Species**

Claims 2,3,5-10 are species of independent claim 1 that were restricted in Office Action mailed 9/28/2006. Claims 2,3,5-10, which were withdrawn, are hereby rejoined since they are dependent on allowed independent claim 1.

Claims 11-20 directed to an allowable product. Pursuant to the procedures set forth in MPEP § 821.04(B), claims 11-20, directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, are hereby rejoined and fully examined for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, the restriction requirement as set forth in the Office action mailed on 9/28/2006 is hereby withdrawn. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claims including all the limitations of an allowable product claim or rejoined process claim are presented in a continuation or divisional application, such claims may be subject to

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provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Luke Pederson on 6/14/2006.

Cancel claim 33

#### **In claim 1**

In line 3 after "articles", insert--that are complementary to each other--

In line 4 after "wherein each", insert--of the plurality of articles in the--

#### **In claim 11**

In line 3 after "articles", insert--that are complementary to each other--

In line 4 before "receive", insert--wherein each of the plurality of articles in the gift set may be customized according to a plurality of specific criteria;--

#### **In claim 16**

In line 3 after "articles", insert--that are complementary to each other--

In line 4 before "means", insert--wherein each of the plurality of articles in the gift set may be customized according to a plurality of specific criteria;--

***Allowable Subject Matter***

Claims 1-34 are allowed.

The following is an examiner's statement of reasons for allowance of independent claims 1, 11 and 16:

Regarding claims 1

The prior art of record neither anticipates nor fairly and reasonably teaches the combination in particular a method, computer readable memory or system for presenting a plurality of gift sets to a purchaser, each gift set comprising a plurality of articles that are complimentary to each other; wherein each of the plurality of articles in the gift set may be customized according to a plurality of specific criteria comprising, *inter alia*, allowing a purchaser to select different sizes for each article purchased in the gift basket (see figure 10).

Discussion of most relevant art:

### **US Patents and PG-PUB**

(i) US Patent (6,633,849) to Dodd discloses a method for customizing a gift and sending it to a recipient who can later further customize the gift or replace the gift with another item. Dodd, however fails to anticipate or render the application's above-mentioned limitation(s) obvious.

(ii) US PG Pub (2002/0026377) to Takahashi discloses a method for Gift arrangement utilizing the Internet. Takahashi, however fails to anticipate or render the application's above-mentioned limitation(s) obvious.

(iii) US Patent (6,240,397) to Sachs discloses a method transferring and utilizing gift certificates. Sachs, however fails to anticipate or render the application's above-mentioned limitation(s) obvious.

(iv) US Patent (6,138,106) to Walker et al. discloses a method for providing gifts using gift certificates. Walker, however fails to anticipate or render the application's above-mentioned limitation(s) obvious.

### **Foreign Patent Documents**

(v) JP411235256A to Nada teaches a method for providing a gift set. Nada,

however, fails to anticipate or render the application's above-mentioned limitation(s) obvious.

### **Non-Patent Literature**

(vi) Allen, Debra, teaches customizing gift baskets with complimentary products, however, the Allen article fails to anticipate or render the application's above-mentioned limitation(s) obvious.

Any comments considered necessary by the applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **(571) 272-6755**. The examiner can normally be reached Monday thru Thursday 8:00 AM to 5:00 PM.

Any inquiry of a general nature or relating to the status of this application or

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proceeding should be directed to the **receptionist** whose telephone number is **(571) 272-3600**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

**(571) 273-8300** [Official communications; including

After Final communications labeled

"Box AF"]

**(571) 273-6755** [Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

A handwritten signature in black ink, appearing to read 'Mark Fadok', with a long horizontal flourish extending to the right.

Mark Fadok

Primary Examiner